1

2

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

3

4

5

6

7

8

YOLANDA AMUNUTIGUI, *et al.*,   )
)
                    Plaintiff,   )   Case No.: 2:22-cv-00361-GMN-ECF
        vs.   )
)   **ORDER**
THE COTTLE FIRM, *et al.*,   )
)
                    Defendants.   )
_____   )

9

10   Pending before the Court is Plaintiffs Yolanda Amunutigui, *et al.*, ("Plaintiffs'")

11   Objection, (ECF No. 5), to the Magistrate Judge's Report and Recommendation, (ECF No. 4),

12   recommending that the Court remand this case.

13   For the reasons discussed below, the Court **DENIES** Plaintiff's Objection and **ADOPTS**

14   **in full** the Magistrate Judge's Report and Recommendation.

15   When reviewing the order of a Magistrate Judge, the order should only be set aside if the

16   order is clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); LR IB 3-1(a); 28 U.S.C. §

17   636(b)(1)(A); *Laxalt v. McClatchy*, 602 F. Supp. 214, 216 (D. Nev. 1985). A Magistrate

18   Judge's order is "clearly erroneous" if the court has "a definite and firm conviction that a

19   mistake has been committed." *See United States v. United States Gypsum Co.*, 333 U.S. 364,

20   395, 68 S. Ct. 525, 92 L. Ed. 746 (1948); *Burdick v. Comm'r IRS*, 979 F.2d 1369, 1370 (9th

21   Cir. 1992). "An order is contrary to law when it fails to apply or misapplies relevant statutes,

22   case law or rules of procedure." *UnitedHealth Grp., Inc. v. United Healthcare, Inc.*, No. 2:14-

23   cv-00224-RCJ, 2014 U.S. Dist. LEXIS 129489, 2014 WL 4635882, at *1 (D. Nev. Sept. 16,

24   2014). When reviewing the order, however, the Magistrate Judge "is afforded broad discretion,

25   which will be overruled only if abused." *Columbia Pictures, Inc. v. Bunnell*, 245 F.R.D. 443,

1 446 (C.D. Cal. 2007). The District Judge "may not simply substitute its judgment" for that of

2 the Magistrate Judge. *Grimes v. City and County of San Francisco*, 951 F.2d 236, 241 (9th Cir.

3 1991) (citing *United States v. BNS, Inc.*, 858 F.2d 456, 464 (9th Cir. 1988)).

4   The Court agrees with the Magistrate Judge's recommendation to remand the case. As

5 he writes, the state court complaint does not allege a federal claim, and the parties are not

6 completely diverse. (R&R 3:1–4); (*see also* Compl. ¶¶ 1–5, 53–66, Ex. 2 to Mot./Appl. Leave

7 Proceed in forma pauperis, ECF No. 1-2). In their Objection, Plaintiff Bequero raises the

8 Treaty of Guadalupe Hildago, takes issue with the term "disgruntled client" who made

9 "threats" against the law firm, and describes a Ponzi/Pyramid scheme involving doctors and

10 lawyers.[1] (*See* Obj. 2:1–3:5, ECF No. 5). However, this does not demonstrate that the

11 Magistrate Judge clearly erred in its recommendation, nor does it cure the deficiencies set forth

12 by the R&R. Thus, the Court adopts the R&R and remands the case to state court.

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22

23 [1] Plaintiff Bequero also requests that the Magistrate Judge be recused for bias. (*See* Obj. 1:19–23). However, the Court finds Magistrate Judge Cam Ferenbach was merely summarizing the claims made in the state court
24 complaint; he was not asserting a personal opinion about those claims. (*See* R&R 2:21–24) ("The Cottle Firm parties allege in the complaint that Amunutigui is a former disgruntled client and Bequero is her adult son: the
25 Cottle Firm parties bring claims against them for trespassing and for a restraining order due to threats Amunutigui and Bequero have made against the firm and staff at the firm. ECF No. 1-2 at 2-10." (*See generally* Compl., Ex. 2 to Mot./Appl. Leave Proceed in forma pauperis). Therefore, the Request for Recusal is denied.
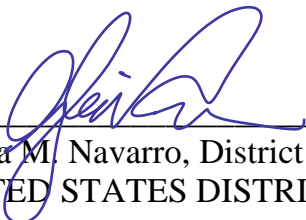
1

I.   CONCLUSION

2

    IT IS HEREBY ORDERED that Plaintiffs' Objection, (ECF No. 5), is **DENIED**.

3

    IT IS FURTHER ORDERED that the Report and Recommendation, (ECF No. 4), is

4

ADOPTED in full.

5

    IT IS FURTHER ORDERED that this case be **REMANDED**.

6

    IT IS FURTHER ORDERED that the Clerk is instructed to close the case.

7

    DATED this __18__ day of April, 2022.

8

9

                 _____

10

                 Gloria M. Navarro, District Judge
                 UNITED STATES DISTRICT COURT

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25